IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3435 OF 2004

Office Note, Office Memoranda of Coram appearance, Corut's orders or directions and Registrar's Orders:

Court's or Judge's Orders

Mr.A.V.Anturkar i/b.Mr.R.D. Suryavanshi, for the petitioner
Mr. R.M. Patne,AGP for the Respondent 1 to 5.

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 10th March, 2005

P.C.

. Rule. Heard forthwith.

2. The matter has been heard on various dates. The petitioners have sought various reliefs against the respondents so as not to hamper or obstruct the business of the petitioner and his dealers for storing and selling the said product Petro Thinner Red without licence. The case of the petitioner is that considering the provisions of the Petroleum Act, 1934, their product falls under Section 2(bb). Under Section 3 no one is is authorised to import, transport or store any petroleum save in accordance with the Rules made under Section 4. Section 4 provides for Rules for import. Under Section 7 notwithstanding anything contained in Chapter I a person need not obtain a licence for the transport or storage of petroleum Class B if the total quantity in his

possession at any one place does not exceed two thousand and five hundred litres and none of it is contained in a receptacle exceeding one thousand litres in capacity. A reading of Sections 4 and 7 would, therefore, show that though there is an exemption for transport and storage under the Rules framed it is open to the Government to prescribe the places that the petroleum may be imported and prohibit import elsewhere. In other words though under Section 7 the petitioner may transport or store nevertheless it will be subject to Rule 4 and it will be restricted to those areas, where petroleum may be imported and suibject to the other requirements of the Rules.

. The other contention of the petitioner is that there is no provision which requires that he must require a licence to sell the petroleum products under the provisions of the Petroleum Act, 1934. The learned A.G.P. has been unable to point out to us any provision under the Petroleum Act which requires license to be obtained under the said Act or Rules framed thereunder for sale.

. Apart from the Petroleum Act and the Rules framed thereunder the Government has been pleased to issue an order in exercise of

its powers conferred by Section 3 of the Essential Commodities Act. By virtue of Section 3 of the said Order no person can acquire, store, sale and use Solvent, Raffinate and Slops or their equivalent and other products without a licence issued by the State Government or District Magistrate or any other Officer authorised by the Central or State Government. In other words this order would be totally independent of the requirements or non-requirement under the provisions of the Petroleum Act, 1934. Under the order a person desiring to deal with products set out under the order will have to obtain a licence to acquire, store or sell the Solvent, Raffinate and slops or their equivalent and other products after receiving the same from the Authorities as specified under Section 3.

. Admittedly the petitioner does not have a licence under the order of 2000 and as such he cannot sell or for that matter acquire and store without a licence. Learned Counsel on behalf of the petitioner makes a statement that they will not sell till such time a licence is obtained from the Authorities. Considering the above, the following order:-

(i) The petitioner to apply to the

authorities within 15 days from today for a licence under the provisions of the order of 2000.

(ii) The Respondents on such an application being made to dispose of the same according to law within a period of five weeks thereafter.

(ii) Rule made partly absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)